

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  HEARTLAND ENERGY GROUP, INC., AND KAZTEX ENERGY MANAGEMENT, INC.	DOCKET NOS. WRU-01-23-3566 WRU-01-28-3565
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**ORDER GRANTING WAIVERS**

(Issued June 28, 2001)

On May 17, 2001, Heartland Energy Group, Inc. (Heartland), filed a "Petition for Waiver" with the Utilities Board (Board) requesting the waiver of certain provisions of 199 IAC 19.14. The waiver request has been identified as Docket No. WRU-01-23-3566. Heartland states that it is a wholly-owned subsidiary of Alliant Energy Resources, the Alliant Energy Corporation (Alliant Energy) subsidiary responsible for Alliant Energy's unregulated business activities. Heartland states that it has actively engaged in selling natural gas supplies in Iowa since 1998 and has 22 current accounts in Iowa. Heartland requests a waiver of 199 IAC 19.14, specifically, subrules (2) and (6).

Heartland is requesting the waiver of the filing requirements in subrules (2) and (6) because it has determined that it is not in its interest to operate as a certificated competitive natural gas provider (CNGP) in Iowa. Heartland states that it is winding up its natural gas supply business in Iowa and has already terminated a

number of contracts. Heartland states that it is in negotiations to sell the remainder of its business and, if successful, the sale should be complete by July 1, 2001. Heartland states that if the negotiations are not successful, it will terminate the remaining supply contracts by December 31, 2001. Since it intends to no longer be in the natural gas supply business after December 31, 2001, Heartland is requesting that it not be required to file an application for a certificate as a CNGP.

On May 30, 2001, Kaztex Energy Management, Inc. (Katzex), filed a "Waiver Request" requesting a waiver of all of the requirements of 199 IAC 19.14, the gas marketer certification rule. The waiver request has been identified as Docket No. WRU-01-28-3565. Katzex states that it has only two supply contracts in Iowa and does not intend to negotiate any additional accounts. Katzex states that one of the contracts expires on October 31, 2001, and the second extends through April 2002.

Katzex states that it is the oldest energy marketer in Wisconsin and only acquired the two accounts in Iowa as the result of a merger with another company. Katzex states that at this time it has no plans to expand its business into Iowa and so requests the waiver until the expiration of the second contract. Katzex states it will file an application for a certificate if it decides in the future to become a CNGP in Iowa.

The Board's rules on certification of CNGPs became effective on April 25, 2001. This rule requires that any marketer or aggregator of natural gas in Iowa must have a certificate from the Board before doing business. The rule did allow those

marketers and aggregators already in business to continue to do business if they filed for a certificate by June 1, 2001. The Board has received at least ten applications for certificates to this date and two requests to waive certain provisions of the certification rule. The Board has also received requests for a waiver of the June 1, 2001, filing date and extensions of the time to file.

Rule 199 IAC 1.3 establishes the requirements that must be met before a waiver of one of the Board's rules can be granted. The rule requires that the Board find based upon clear and convincing evidence that (1) the application of the rule would pose an undue hardship on the person for whom the waiver is requested, (2) the waiver of the rule would not affect the substantial rights of any person, (3) the provisions of the rule are not specifically mandated by statute or another provision of law, and (4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.

The Board has reviewed the two requests for waiver of the CNGP rule. The Board believes that the intent of the rule, and the grandfather provision, is to obtain a list of companies that are providing natural gas supply services in Iowa and then to have them report on their activities. Additionally, the rules are to ensure that the CNGPs are legitimate businesses and have the ability to provide the service they propose to offer, especially to small volume customers.

The Board finds that it would be an undue hardship for companies such as Heartland and Kaztex to comply with the filing requirements of subrules 199 IAC 19.14 (2), (3), (4) and (6) since they have indicated that they are winding up their operations in Iowa and will not be providing natural gas service after a specific date. The Board finds that the statutory requirements concerning certification are met by monitoring these companies' exit from the Iowa market and that the waivers will not affect the substantial legal rights of any person. The customers of the two companies have contracts entered into prior to the Board's rule and since the companies will be exiting the market, no new customers will be affected. Finally, the Board finds that the public health, safety, and welfare will be substantially protected after the waivers as they are before the waivers.

The Board will grant a waiver to each of the companies of the filing requirements of 199 IAC 19.14(2), (3), (4) and (6). Subrule 19.14(2) prohibits a CNGP from providing service without a certificate. The waiver of this subrule will allow the two companies to continue to serve without filing for a certificate until they exit the market. Subrules 19.14(3) and (4) apply to the filing of the applications and are unnecessary in these circumstances.

Subrule 19.14(6) requires the filing of certain information if a CNGP proposes to offer service to small volume customers. Since the two companies will not be providing service to new customers, this provision is unnecessary and will be waived. The two companies will be directed to comply with the requirements of paragraphs

19.14(5)"a" and "b" and the filing requirements of paragraph 19.14(5)"c." The reports required by paragraph (5)"c" are to be filed on or before September 1, 2001. The Board will also direct the companies to file notice that they have exited the Iowa market. Additionally, if either company decides to remain in business as a CNGP, it must file an application and comply with 199 IAC 19.2(2) and 199 IAC 19.14.

**IT IS THEREFORE ORDERED:**

1. Heartland Energy Group, Inc., is granted a waiver of 199 IAC 19.14(2), (3), (4), and (6).
2. Kaztex Energy Management, Inc., is granted a waiver of 199 IAC 19.14(2), (3), (4), and (6).
3. Heartland Energy Group, Inc., and Kaztex Energy Management, Inc., shall comply with the reporting requirements as described in this order.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Judi K. Cooper  
Acting Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 28<sup>th</sup> day of June, 2001.